

40.250 OVERLAY DISTRICTS

40.250.010 AIRPORT ENVIRONS OVERLAY DISTRICTS (AE-1, AE-2)

A. Purpose.

1. General. These overlay districts are intended to provide notice of pending pre-applications and applications to nearby airports, provide an opportunity to mitigate adverse impacts of new development on airport operations and provide for comment from the airport owner, Federal Aviation Administration and State Aviation Division on development pre-applications and applications
2. Airport Environs (AE-1) Overlay. This district is intended to identify and protect existing general aviation public use airports that have been significantly impacted by adjacent development. This overlay provides for notification of airport owners, Federal Aviation Administration and the State Aeronautics Division to provide an opportunity to mitigate the adverse impacts of new development on airport operations, reduce the range of airport noise sensitive uses from locating in close proximity to the airport and require notification to future land owners of the impacts on property inherent in locating near an airport
3. Airport Environs (AE-2) Overlay. This district is intended to identify and protect future/new general aviation public use airports by providing, in addition to the protections of the AE-1 overlay, protective surfaces standards that are combined with the underlying zoning district to minimize the conflicts between airports and proposed future development. These protective surfaces: (a) prevent future incompatible uses and the establishment of airspace obstructions in airport clear zones, approaches and surrounding areas through height restrictions, (b) restrict noise-sensitive uses and regulate further establishment of uses sensitive to airport operations by precluding some uses and notification of airport impacts of other uses.

B. Applicability.

1. The application of the AE-1 overlay zone extends outward from the airport runway approximately two thousand (2,000) feet as shown on the official maps adopted by Clark County.
2. The AE-2 overlay zone will be applied on the official zoning map of Clark County and include the AAZ and RPZ; provided, the RPZ shall be applied only if the airport owns the property subject to this zone.
3. Where the standards contained in this district conflict with base zone standards, the more restrictive standard shall apply.

C. Definitions. For the purposes of this section, the following definitions shall apply:

| | |
|-----------------------------|--|
| Airport approach zone (AAZ) | "Airport approach zone (AAZ)" shall mean the land area beneath the approach surface, excluding the runway protection zone. |
| Airport hazard | "Airport hazard" shall mean any structure, tree or use of land which exceeds height limits established by the airport imaginary surfaces. |
| Airport imaginary surface | "Airport imaginary surface" shall mean those imaginary areas in space which are defined by the approach surface, transitional surface, horizontal surface and conical surface and in which any object extending above these imaginary surfaces is an obstruction. |
| Approach surface | "Approach surface" shall mean a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and extends to a width of: one thousand two hundred fifty (1,250) feet for a utility runway having only visual approaches; one thousand five hundred (1,500) feet for a runway other than a utility runway having only visual approaches; two thousand (2,000) feet for a utility runway having a nonprecision instrument approach; three thousand five hundred (3,500) feet for a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths (3/4) of a statute mile; and four thousand (4,000) feet for a nonprecision instrument runway having visibility minimums as low as three-fourths (3/4) statute mile. The approach surface extends for a horizontal distance of five thousand (5,000) feet at a slope of twenty (20) feet horizontally for each foot vertically (20:1) for all utility and visual runways; and ten thousand (10,000) feet at a slope of thirty-four (34) feet |

| | |
|---------------------------------|---|
| | horizontally for each foot vertically (34:1) for all nonprecision instrument runways other than utility. |
| Conical surface | "Conical surface" shall mean a surface extending twenty (20) feet horizontally for each foot vertically (20:1) from the periphery of the horizontal surface for a horizontal distance of four thousand (4,000) feet. |
| Conical zone | "Conical zone" shall mean the area beneath the conical surface. |
| Hazard to air navigation | "Hazard to air navigation" shall mean an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace. |
| Height | "Height" shall mean, for the purpose of determining the height limits set forth in this chapter and shown on the approach and clear zone maps, the elevation above mean sea level datum unless otherwise specified. |
| Horizontal surface | "Horizontal surface" shall mean a horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of five thousand (5,000) feet from the center of each end of the primary surface of each visual or utility runway and ten thousand (10,000) feet from the center of each end of the primary surface of all other runways and connecting the adjacent arcs by lines tangent to those arcs. |
| Horizontal zone | "Horizontal zone" shall mean the area beneath the horizontal surface. |
| Noise sensitive area | "Noise sensitive area" shall mean the area within approximately two thousand (2,000) feet of the runway as identified on the zoning map of Clark County. |
| Non-precision instrument runway | "Non-precision instrument runway" shall mean a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved, or planned, or indicated on an FAA or state planning document or military service airport planning document. |
| Obstruction | "Obstruction" shall mean any structure, growth, or other object, including a mobile object which exceeds a limiting height set forth in this section (see definition of Airport imaginary surface). |
| Place of public assembly | "Place of public assembly" shall mean schools, churches, theaters, arenas, entertainment activities. |
| Primary surface | "Primary surface" shall mean a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is two hundred fifty (250) feet for utility runways having only visual approaches, five hundred (500) feet for utility runways having nonprecision instrument approaches, five hundred (500) feet for other than utility runways having only visual approaches or nonprecision instrument approaches with visibility minimums greater than three-fourths (3/4) of a mile, and one thousand (1,000) feet for nonprecision instrument runways with visibility minimums of three-fourths (3/4) of a mile or less. |
| Runway protection zone (RPZ) | "Runway protection zone (RPZ)" shall mean an area owned by the airport, longitudinally centered on the extended runway centerline and extending outward from each end of the primary surface to a point in which the approach surface is fifty (50) feet above the established runway elevation. The boundaries of the runway protection zone correspond to the approach surface. |
| Transitional surface | "Transitional surface" shall mean a surface extending outward at ninety (90) degree angles to the runway centerline and runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary surfaces and approach surfaces and to where it intersects the horizontal surface. |
| Transitional zone | "Transitional zone" shall mean the area beneath the transitional surface. |
| Utility runway | "Utility runway" shall mean a runway that is constructed for and intended to be used by propeller-driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight or less. |
| Visual runway | "Visual runway" shall mean a runway that is intended solely for the operation of aircraft |

| | |
|--|---|
| | using visual approach procedures with no instrument approach procedures approved, planned, or indicated on an FAA or state planning document or military service airport planning document. |
|--|---|

D. Comments required.

1. Applicants with property within an airport or airport environs overlay district shall provide written comments from the State Aeronautics Division, Federal Aviation Administration and the airport owner to Clark County at the pre-application conference.
2. Where no pre-application conference is required, the written comments shall be provided with the application packet.
3. Where the applicant has provided written requests for comments and the agency or airport owner has failed to respond within thirty (30) days from the date the written request was mailed, the applicant may submit the pre-application or application without the required comments.

E. Standards.

1. General.
 - a. Noise-Sensitive Uses. Prior to final approval, the land owners of land divisions and site plan reviews located within an AE zone shall sign and separately record in the deed and mortgage records of Clark County a notice of airport activities and submit it to the airport sponsor and the responsible official, pursuant to subsection (F), below.
 - b. Lighting. New development that creates glare or lighting that interferes with lights necessary for aircraft landings is prohibited.
2. Airport Environs Overlay (AE-1). Based on the responses from the airport owner, state and federal aviation authorities, Clark County shall determine whether the proposal causes a significant threat to the health or safety of people on or off the property. Where a significant adverse structural impact is identified the responsible official may issue a determination of significance where mitigation measures are not known or a mitigated determination of nonsignificance where mitigation measures are known.
3. Airport Environs Overlay (AE-2).
 - a. While it is desirable to prevent new obstructions from the runway protection zone (RPZ), some uses are permitted, provided they do not attract wildlife, are below the approach surface, and do not interfere with airport operations.
 - (1) Agricultural operations (other than forestry or livestock farms).
 - (2) Golf courses (but not club houses).
 - (3) Automobile parking facilities.
 - b. Places of public assembly are prohibited in the AAZ.
 - c. No structure shall penetrate into the airport imaginary surfaces as defined under Section 40.250.010(C).

F. Notice of airport activities. Land divisions and site plan applications within an airport environs overlay district shall contain or be accompanied by a notice provided by the responsible official. Said notice shall include the following disclosure:

1. The subject property is near an airport where a variety of airport related activities occur that are not compatible with development. Potential discomforts or inconveniences may include, but are not limited to: noise, aircraft take offs and landings.
2. Such notice shall be recorded separately with the County Auditor.

40.250.020 SURFACE MINING OVERLAY DISTRICT (S)

- A. Purpose. It is the intent of this overlay district to ensure the continued use of rock, stone, gravel, sand, earth and minerals without disrupting or endangering adjacent land uses, while safeguarding life, property and the public welfare. Provisions of RCW 78.44 and WAC 332-18 applicable to Clark County pertaining to surface mining are adopted by reference. No surface mining use shall be established until the responsible official issues site plan approval.
- B. Uses. The following uses are permitted outright or by conditional use permit within this district:
1. Permitted
 - a. All uses allowed in the zone district with which this district is combined.
 - b. Extractions from deposits of rock, stone, gravel, sand, earth and minerals.
 2. Conditional.
 - a. Asphalt mixing.
 - b. Concrete batching.
 - c. Clay bulking.
 - d. Rock crushing.
- C. Accessory uses. On-site hazardous waste treatment and storage facilities, subject to State Siting Criteria (RCW 70.105.210) are permitted as an accessory use in this district.
- D. Special standards or requirements.
1. Site Area. When the activity includes both extraction and any one of the uses listed in Section 40.250.020(B)(2), the total site area shall be a minimum of twenty (20) acres. Activities which are limited to extractions only shall not have a minimum site size.
 2. Lot Width. There shall be a minimum lot width of sixty (60) feet for all activities included in Section 40.250.020(B)(2).
 3. Fencing. The periphery of all sites within the gross site area being actively mined or reclaimed shall be fenced according to the Department of Natural Resources' standards.
 4. Setbacks. The tops and toes of cut and fill slopes shall be set back from property boundaries according to the Department of Natural Resources' standards for safety of the adjacent properties, and to prevent damage resulting from water runoff or erosion of slopes.
 5. Maximum Permissible Noise Levels. Maximum permissible noise levels shall be according to the provisions of the WAC 173-60.
 6. Hours of Operation. Hours of operation, unless otherwise authorized by the responsible official, shall be between 6:00 A.M. and 8:00 P.M.
 7. Erosion Control. All disturbed areas, including faces of cuts and fill slopes, shall be prepared and maintained to control erosion. This control may consist of planting sufficient in amount or type to stabilize the slope (as approved by the responsible official).
 8. Drainage. Provisions shall be made to:
 - a. Prevent any surface water or seepage from damaging the cut face of any excavations or the sloping face of a hill.
 - b. Prevent sediment from leaving the site in a manner which violates RCW 90.48.080 and WAC 173-201-100.
 9. Bench/Terrace. Benches shall be backsloped, and shall be established at not more than forty (40) foot vertical intervals, to control surface drainage and debris. Swales or ditches on benches shall have a maximum gradient of five percent (5%).
 10. Access Roads Maintenance. Access roads to mining and quarrying sites shall be maintained and located to the satisfaction of the director of public works, to minimize problems of dust, mud and traffic circulation.
 11. Overburden. Overburden shall only be removed to accommodate aggregate and related activities of this section.
- E. Plan approval. Prior to receiving approval, the responsible official shall first review and approve plans and specifications and other supporting data, through a Type II site plan review process.

- F. Information on plans and in specifications. Plans shall be drawn to an engineer's scale and shall be of sufficient clarity to indicate the nature and extent of the work proposed, and show in detail that they will conform to the provisions of this section and all other relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the location of the work, and the names and addresses of the owner and the person by whom they were prepared. The plans shall include the following minimum information:
1. General vicinity maps of the proposed site.
 2. Property boundaries and accurate contours of existing ground, details of terrain, and details of area drainage.
 3. Dimensions of area to be mined, elevations or finished contours to be achieved by the grading, proposed drainage channels and related construction.
 4. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, berms, settling ponds and other protective devices to be constructed with or as a part of the proposed work, together with the maps showing the drainage area and the estimated runoff of the area served by any drains.
 5. Location of any buildings or structures on the property where the work is to be performed, and the location of any buildings or structures on land of adjacent property owners which are within fifty (50) feet of the property, or which may be affected by the proposed operation.
 6. Landscape and Rehabilitation Plan, as required by Section 40.250.020(G).
- G. Land restoration.
1. Upon the exhaustion of minerals or materials, or upon the permanent abandonment of the quarrying or mining operation, all buildings, structures, apparatus or appurtenance accessory to the quarrying and mining operation which are nonconforming to the underlying district shall be removed or otherwise dismantled to the satisfaction of the responsible official.
 2. Unless approved as a sanitary landfill, grading or backfilling shall be made with non-noxious, nonflammable, noncombustible and nonputrescible solids.
 3. Such graded or backfilled areas, except for roads, shall be sodded or surfaced with soil of a quality at least equal to the topsoil of the land areas immediately surrounding, and to a depth of at least four (4) inches, or a depth of that of the topsoil of land areas immediately surrounding, if less than four (4) inches.
 4. Such topsoil as required by subsection (G)(3) of this section shall be planted with trees, shrubs or grasses. If the site is within an AG or FR district, the topsoil shall be of a similar type to the surrounding area.
 5. Graded or backfilled areas shall be reclaimed in a manner which will not permit stagnant water to remain. Suitable drainage systems approved by the responsible official shall be constructed or installed if natural drainage is not possible.
 6. Waste or soil piles shall be leveled and the area treated, as required in subsections (G)(3) and (G)(4) of this section.
- H. Applicability to preexisting operations. Notwithstanding Section 40.530.050, the provisions of the surface mining overlay district shall apply to surface mining operations commenced prior to, and in continued operation, as of December 30, 1997.

40.250.030 HISTORIC PRESERVATION

- A. Purpose. The purpose of this section is to provide for the identification, evaluation and protection of historic and prehistoric resources within the county and to encourage the preservation, restoration and rehabilitation of eligible historic and/or cultural resources within the county for future generations in order to:
1. Safeguard the heritage of the county as represented by those buildings, objects, sites and structures which reflect the significant elements of the county's history;
 2. Increase recognition of the county's historic and cultural resources;
 3. Foster a sense of identity based upon the county's history;
 4. Assist, encourage and provide incentives to property owners for preservation, restoration and use of significant buildings, objects, sites and structures; and
 5. Promote and facilitate the early identification and resolution of conflicts between preservation of historic/cultural resources and alternative land uses.
- B. Applicability. This section applies to any property(ies) which fall into the following categories:
1. Property(ies) listed or eligible to be listed on any historic or cultural resource inventory within the county;
 2. Property(ies) listed or eligible to be listed on the National Register of Historic Places, Washington State Heritage Register, Clark County Heritage Register or other local register within the county.
- C. Definitions. For the purposes of this section, the following definitions shall apply, unless a different meaning clearly appears from the context:

| | |
|---|---|
| Board | "Board" shall refer to the Clark County Board of Commissioners, except where reference is made to the "local review board" for purposes of the special valuation tax incentive program. |
| CLG | "CLG" means Certified Local Government. |
| Clark County cultural resources inventory | "Clark County cultural resources inventory" or "inventory" means a comprehensive inventory of historic resources within the boundaries of Clark County including resources identified in the Clark County cultural resources inventory and other inventories by local jurisdictions within Clark County. |
| Clark County Heritage Register | "Clark County Heritage Register" means the list of properties, structures and objects that have been designated to be representative of Clark County's rich history. |
| Commission | "Commission" means the "Clark County Historic Preservation Commission." |
| Cultural resources | "Cultural resources" consist of historic or prehistoric or archaeological sites and standing structures, cemeteries, burial grounds and funerary objects and distributions of cultural remains and artifacts. |
| Emergency repair | "Emergency repair" means work necessary to prevent destruction or dilapidation to real property or structural appurtenances thereto immediately threatened or damaged by fire, flood, earthquake or other disaster. |
| National Register of Historic Places | "National Register of Historic Places" means the national listing of properties significant to our cultural history because of their documented importance to our history, architectural history, engineering or cultural heritage. |
| Ordinary repair and maintenance | "Ordinary repair and maintenance" means work for which a permit issued by Clark County is not required by law, and where the purpose and effect of such work is to correct any deterioration or decay of or damage to the real property or structural appurtenance therein and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay or damage. |
| Qualified archaeologist | "Qualified archaeologist" means a person who has had formal training and/or experience in archaeology over a period of at least three (3) years, and has been certified in writing to be a qualified archaeologist by two professional archaeologists, as defined in RCW 27.53.030. |
| Washington Heritage Register | "Washington Heritage Register" means the state listing of properties significant to the community, state or nation but which do not meet the criteria of the National Register of Historic Places. |

D. Clark County Historic Preservation Commission.

1. Creation and Size. There is established a Clark County Historic Preservation Commission (the commission), consisting of a minimum of five (5) members, as provided in subsection B of this section. Members of the commission shall be appointed by the board and shall be residents of the county, except as provided in subsection (2)(b) of this section.
2. Composition of the Commission.
 - a. All members of the commission must have a demonstrated special interest, experience or knowledge in history, historic preservation, architecture or related disciplines as listed in subsection (b), below.
 - b. The commission shall always include at least two (2) professionals who have experience in identifying, evaluating and protecting historic and cultural resources and are selected from among the disciplines of history, public history, architecture, architectural history, historic preservation, planning, cultural anthropology, archaeology, cultural geography, American studies, or the practice of historic rehabilitation or restoration. The commission action that would otherwise be valid shall not be rendered invalid by the temporary vacancy of one or all of the professional positions, unless the commission action is related to meeting Certified Local Government (CLG) responsibilities cited in the certification agreement between the board and the State Historic Preservation Officer. Furthermore, exception to the residency requirement of commission members may be granted by the board in order to obtain representatives from these disciplines.
3. Terms.
 - a. The initial appointments to the commission shall be staggered. Two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, and one (1) member shall be appointed for three (3) years. Thereafter the terms shall be for three (3) years. Membership on the commission shall be limited to two (2) full consecutive three (3) year terms. Reappointment after two (2) full consecutive terms may be made after at least a one (1) year absence.
 - b. Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired terms. Members may be removed by the board for inefficiency, neglect of duty or malfeasance in office. The members shall be selected without respect to political affiliations.
4. Powers and Duties. The major responsibilities of the Historic Preservation Commission are to identify and actively encourage the conservation of the county's historic and cultural resources by initiating and maintaining a register of historic places and reviewing proposed changes to register property(ies); to raise community awareness of the county's historic and cultural resources; and to serve as the county's primary resource in matters of historic preservation. In carrying out these responsibilities, the commission shall engage in the following:
 - a. Conduct and maintain a comprehensive inventory of historic and cultural resources within the boundaries of Clark County and known as the Clark County cultural resource inventory; publicize and periodically update inventory results;
 - b. Maintain the Clark County Heritage Register (CCHR). This official register shall be compiled of buildings, structures, sites and objects identified by the commission as having historic significance worthy of recognition by the county and encouragement of efforts by owners to maintain, rehabilitate and preserve properties;
 - c. Review nominations to the National Register of Historic Places and CCHR according to criteria in Sections 40.250.030(E) and 40.250.030(F). Make designations to the CCHR;
 - d. Submit nominations to the Washington State Heritage Register and National Register of Historic Places;
 - e. Provide for comment by the commission on all applications for approvals, permits, environmental assessments or impact statements, and other similar documents pertaining to identified historic or cultural resources or adjacent property(ies) when requested to by staff;
 - f. Provide information, comment and support to the public and agencies on matters related to historic preservation;
 - g. Encourage recognition of noteworthy efforts in the rehabilitation or maintenance of historic buildings, structures, sites and districts, and new construction in historic areas;
 - h. Serve as the local review board for special valuation pursuant to RCW 84.26;
 - i. Conduct design review consistent with Section 40.250.030(G) on CCHR properties.

5. Compensation. All members shall serve without compensation.
 6. Rules and Officers.
 - a. The commission shall establish and adopt its rules and procedures not inconsistent with this section.
 - b. The commission shall select from among its membership a chairperson and vice-chair to conduct the commission's business.
 7. Commission Staff. Staff assistance shall be provided by the Department of Community Development with additional assistance and information to be provided by other county or city departments as may be necessary to aid the commission in carrying out its duties and responsibilities under this section.
 8. Inter-local Agreement Required. Prior to review by the commission of nominations or certificates of approval for properties within incorporated cities, an inter-local agreement shall be established.
- E. National Register of Historic Places.
1. Nominations to the National Register of Historic Places shall be reviewed as established in the Code of Federal Regulations (36 CFR 60).
 2. Review. The commission shall hold a duly advertised public hearing at a regularly scheduled meeting at which the applicable criteria are reviewed and a recommendation forwarded to the State Office of Archaeology and Historic Preservation (OAHP) within sixty (60) days of the date of application. The OAHP shall complete the designation process and notify the applicant of the designation decision.
- F. Clark County Heritage Register (CCHR).
1. Criteria for Determining Eligibility for Designation in the Register. Any building, structure, site, object or district may be designated for inclusion in the CCHR if it is significantly associated with the history, architecture, archaeology, engineering or cultural heritage of the community; if it has integrity of location, design, setting, materials, workmanship, feeling and association; is at least fifty (50) years old, or is of lesser age and has exceptional importance.

"Significance" or "significant" used in the context of historic significance means the following: a property with local, state or national significance is one which helps in the understanding of the history of the local area, state or nation (whichever is applicable) by illuminating the local, statewide or nationwide impact of the events or persons associated with the property, or its architectural type or style in information potential. The local area can include Clark County, or southwest Washington, or a modest geographic or cultural area, such as a neighborhood. Local significance may apply to a property that illustrates a theme that is important to one or more localities; state significance to a theme important to the history of the state; and national significance to property of exceptional value in representing or illustrating an important theme in the history of the nation.

The property(ies) must meet the above as well as fall into at least one of the following categories:

- a. Is associated with events that have made a significant contribution to the broad patterns of national, state or local history;
- b. Embodies the distinctive architectural characteristics of a type, period, style or method of design or construction, or represents a significant and distinguishable entity whose components may lack individual distinction;
- c. Is an outstanding work of a designer, builder or architect who has made a substantial contribution to their field;
- d. Exemplifies or reflects special elements of the county's history;
- e. Is associated with the lives of persons significant in national, state or local history;
- f. Has yielded or may be likely to yield important archaeological information related to history or prehistory;
- g. Is a historic building or cultural resource removed from its original location but which is significant for architectural value, or association with a historic person or event, or prehistory;
- h. Is a birthplace or grave of a prehistoric or historical figure of outstanding importance and is the only surviving structure or site associated with that person;

- i. Is a cemetery or burial site which derives its primary significance from age, from distinctive design features, or from association with historic events, or cultural patterns;
 - j. Is a reconstructed building that has been executed in a historically accurate manner on the original site;
 - k. Is a creative and unique example of folk architecture and design created by persons not formally trained in the architectural or design professions, and which does not fit into formal architectural or historical categories:
- 2. Nominating, Designating and Listing Property(ies) to the CCHR.
 - a. A property owner or owners must consent in writing before a nomination application may be accepted by the county. Any person may prepare a nomination form; however, it will not be scheduled for public hearing without owner(s) consent. In its designation decision, the commission shall consider the Clark County cultural resources inventory and the county's comprehensive plan.
 - b. The commission shall consider the merits of the nomination, according to the criteria in subsection A of this section and according to the nomination review standards established in its rules and procedures, at a public hearing. Adequate notice will be given to the public, the owner(s) and the author(s) of the nomination, if different, and lessees, if any, of the subject property prior to the public meeting according to standards for public meetings established in rules and in compliance with RCW 42.30, Open Public Meetings Act. Such notice shall include publication in a newspaper of general circulation in Clark County and posting of the property per Section 40.510.030(D). If the commission finds that the nominated property is eligible for the CCHR, the commission shall list the property in the register with owner's consent.
 - c. In the case of individual property(ies), the designation shall include all exterior features, interior features, and outbuildings which directly contribute to the significance of the historic or architectural character.
- 3. Nominating, Designating, and Listing of Historic Districts (THIS SECTION RESERVED).
- 4. Removal of Property(ies) from the CCHR.
 - a. A property owner may request a review of a property for possible removal from the CCHR. A written request may be submitted to the commission and considered at a public meeting. However, there is no automatic right to have a property removed from the register.
 - b. In the event that any property is no longer deemed appropriate for designation to the CCHR, the commission may initiate removal from such designation by the same procedure as provided for in establishing the designation, subsection (F)(2) of this section, except that a property may be removed from the CCHR without the owner's consent.
- 5. Effects of Listing on the Register. Nominations of historic districts to the CCHR are not provided for in this section in unincorporated Clark County. References to historic districts in this section are for the purpose of reviewing district nominations and designations of jurisdictions with historic district criteria written into their ordinance(s) and with which Clark County has a valid inter-local agreement for such review.
 - a. Listing on the CCHR is an honorary designation denoting significant association with the historic, architectural, archaeological, engineering or cultural heritage of the community. Property(ies) is (are) listed individually or as contributing property(ies) to a historic district.
 - b. Prior to the commencement of any work associated with the significant features as defined in the designation of the register property, excluding ordinary repair, maintenance and emergency measures defined in Section 40.250.030(G), the owner must request and receive a certificate of appropriateness from the commission for the proposed work.
 - c. Prior to whole or partial demolition of a register property, the owner must request and receive a waiver of a certificate of appropriateness.
 - d. After demolition of a structure the commission may initiate removal of the property from the CCHR.
 - e. While Clark County is certified as a Certified Local Government (CLG), all properties listed on the CCHR and the National Register of Historic Places may be eligible for a special tax valuation on their rehabilitation pursuant to Section 40.250.030(I).
 - f. The owner must provide ordinary repair and maintenance to ensure protection of the contributing historic features of the property as defined in the historic designation.
- 6. Recording Designations and Listings. All properties which are designated and listed on the CCHR shall have a copy of the listing recorded with the County Auditor's office. A copy of the designation and listing letter for recording shall be forwarded to the County Auditor's office by commission staff.

- G. Review of changes to CCHR property(ies)–Design review.
1. To achieve the comprehensive plan and historic preservation goals and to safeguard the heritage of Clark County, a two (2) part evaluation system is necessary:
 - a. The identification of those materials, features and combinations of features that gives significance to property(ies) or districts on the CCHR and
 - b. Assessing the potential impact of rehabilitation work necessary for efficient contemporary utilization of the property.
 2. The historic character of a property or district is defined by many features: materials, style, composition and decorative features; the presence of architectural metals; window number, arrangements and styles (fenestration); entrances and porches, storefronts on commercial buildings, internal arrangement and detailing; and the historic relationship between buildings, landscape features and open space, as well as many other materials and features can all contribute to a property's character.
 3. After identifying the distinguishing historic characteristics of a property subject to the design review process, retention and preservation of those features and materials are the primary goals of the design review effort. This is accomplished through the review process individual to each property. However, there are preferred options, specified by the Secretary of the Interior, common to each property. These are, in descending order of preferability:
 - a. Protecting and maintaining,
 - b. Repairing,
 - c. Replacing,
 - d. Design for missing features, and
 - e. Alterations and additions to historic buildings. The guidelines for the above are listed in the "rules and procedures" adopted herewith.
 4. Review Required. No person shall construct any new building or structure, or reconstruct, alter, restore, remodel, repair, move, demolish or make any material change affecting significant historic features as listed in the designation form(s) to any existing property on the CCHR or within a historic district on the CCHR without review by the commission and without receipt of a certificate of appropriateness, or in the case of demolition, a waiver of certificate of appropriateness, as a result of the review. The review shall apply to all features of the property, interior and exterior, that contribute to its designation and are listed on the designation. This requirement shall apply whether or not the proposed alteration also requires a building or other permit, except as noted under subsection (5) of this section. Information required by the commission to review the proposed changes is established in rules and procedures. A pre-application conference is recommended but is at the request of the applicant.
 5. Exemptions. The following activities do not require a certificate of appropriateness or review by the commission:
 - a. Ordinary repair and maintenance which do not effect significant historic features including:
 - (1) Painting or emergency measures as defined in Section 40.250.030(C).
 - (2) Ordinary repairs and maintenance which do not alter the appearance of a significant feature and do not utilize substitute materials do not require a certificate of appropriateness.
 - (3) If there are not interior features of significance, repairs to, or replacement, of utility systems.
 6. Review Process.
 - a. Requests for Review and Issuance of a Certificate of Appropriateness or Waiver. The building or zoning official shall report any application for a permit to work on a designated CCHR property or in a Clark County heritage historic district to the commission. If the activity is not exempt from review, the commission or staff shall notify the applicant of the review requirements. The responsible official shall not issue any such permit until a certificate of appropriateness or a waiver is received from the commission but shall work with the commission in considering building and fire code requirements.
 - b. There shall be two (2) types of reviews for issuance of a certificate of appropriateness:
 - (1) Type I. An administrative review by commission staff for repairs and replacements-in-kind as listed below, but not limited to, the following:
 - (a) Repairs (other than ordinary repair and maintenance) using the same materials and design as the original;
 - (b) Reroofing using the same type and color of material;

- (c) Replacement of sidewalks and driveways using the same type and color of materials;
 - (d) Replacement of foundations or major portions thereof, using the same type and color of materials;
 - (e) Replacement of utility systems if contributing interior features of significance are present;
 - (f) Structural or seismic upgrades which do not alter or affect significant features.
- (2) Type III. A public hearing review by the commission for alterations in appearance, replacement of historic materials, new construction or additions, or demolition or removal of a CCHR building or cultural resource. Demolition of structures or facilities with recognized historical significance is also subject to the State Environmental Policy Act.
- c. When a certificate of appropriateness is required, the following procedures shall govern according to the type of review required.
 - (1) Type I, Staff Review. Type I application for review for certificates of appropriateness shall be reviewed by the commission staff.
 - (a) Applications for the certificate shall be submitted to the commission staff on forms provided by the commission and in accordance with the following submission requirements: a clear photograph or photographs of the building, object, site or structure, a brief description of the intended work, and samples of replacement material for comparison with the existing or the original building or structure must be furnished with the application.
 - (b) Decision of the commission staff on the application shall be made within fifteen (15) days from the date on which the commission staff receives a fully complete application.
 - (c) The commission staff may, on his or her own motion, refer the application to the commission for a decision in accordance with the procedures set forth for a Type III Commission Review. The time for a decision of the commission on the application shall run from the date that the application is referred to the commission by the staff.
 - (d) Appeals from the decision of the commission staff regarding the issuance of a certificate of appropriateness by a Type I review may be appealed pursuant to the procedures in Section 40.510.010(E) for a Type I review. Appeals are to the commission, not the hearing examiner.
 - (2) Type III, Commission Review. Alterations in appearance, replacement of historic material (other than in-kind), new construction or additions. Alteration in the appearance of a significant contributing feature, the replacement of historic material (other than in-kind) in a significant feature, additions to a CCHR-structure or new construction on a CCHR property or in a historic district, or any excavation on an archaeological site requires a Type III review for a certificate of appropriateness. The owner or the owner's agent (architect, contractor, lessee, etc.) shall apply to the commission for a review of proposed changes on a CCHR property or within a CCHR historic district and request a certificate of appropriateness or, in the case of demolition, a waiver. Each application for review of proposed changes shall be accompanied by information as required by the commission in its rules and procedures for the review of the proposed project. The commission staff shall meet with the applicant and review the proposed work according to the design review criteria established in rules. Notice of the design review shall be published in a newspaper of general circulation with the agenda for a public hearing and the property posted. The commission shall complete its review and make its recommendations and decision within the timelines established in Section 40.510.030(F), unless an extension of time is necessary. The commission's decision shall be in writing and shall state the findings of fact and reasons relied upon in reaching its decision. If the owner agrees to the commission's decision a certificate of appropriateness shall be awarded by the commission according to standards established in its rules and procedures. The commission's recommendations and decision, and, if awarded, the certificate of appropriateness shall be transmitted to the building or zoning official. If a certificate of appropriateness is awarded, the building or zoning official may then issue the permit.
- d. Demolition. A waiver of certificate of appropriateness is required before a permit may be issued to allow whole or partial demolition of a designated CCHR property or in a CCHR historic district. Demolition is subject to review under the State Environmental Policy Act.
 - (1) The owner or the owner's agent shall attend a pre-application conference with staff to review demolition or alternative plans. After the pre-application conference the applicant may apply to the commission for a review of the proposed demolition and request a waiver.

- (2) The applicant shall provide with the application for waiver a bona fide list of alternatives to demolition, which includes, but is not limited to:
 - (a) economic analysis;
 - (b) offers to lease, sell or dedicate site to a private, public or nonprofit entity, and outcome of the offer;
 - (c) relocation of building, etc.
- (3) The applicant shall meet with the commission to review alternatives to demolition.
- (4) Commission consideration of the alternatives to demolition shall last no longer than forty-five (45) days from the date of application, unless an extension of time is necessary. In no case shall a request for extension extend beyond an additional forty-five (45) days. If no request for an extension is made or no alternative to demolition has been agreed to, the commission shall act and advise the official-in-charge of issuing a demolition permit of the approval or denial of the waiver of a certificate of appropriateness. When issuing a waiver the commission may require the owner to mitigate the loss of the CCHR property by means determined by the commission at the public hearing. Mitigation may include, but is not limited to, an identification plaque, use of an architectural element in new construction, moving the building, and/or buffering of the historic or cultural resource. The commission's recommendations, decision and conditions of approval shall be transmitted to the responsible official. Any conditions in this review process shall become conditions of approval of the permits granted. After the property is demolished, the commission may initiate removal of the property from the CCHR.
- e. Appeal of Approval or Denial of a Waiver of a Certificate of Appropriateness. The commission's decision regarding a waiver of a certificate of appropriateness may be appealed to the board. The appeal must be in conformance with the appeal procedures in Section 40.510.030(H). Appeal of a board decision regarding a waiver of a certificate of appropriateness may be appealed to Superior Court. If a waiver of a certificate of appropriateness is issued, a permit for demolition may be issued.
- 7. Violation. Violations of this section shall be grounds for the commission to review the property for removal from the register and is subject to enforcement under Title 32 of the Clark County Code. The property owner may also be subject to special valuation disqualification as stated in WAC 458-15-070 and Chapter 3.22 of this code.

H. Relationship to zoning.

- 1. Property(ies) designated to the CCHR shall be subject to the provisions set forth herein, as well as the bulk, use, setback, and other controls of the zoning district in which they are located. Nothing contained herein shall be construed to be repealing, modifying or waiving any zoning provisions.
 - a. Property(ies) on any historic register or the Clark County cultural resources inventory shall be so noted in the manual or electronic permit tracking system or other database of the county or any CLG city to alert staff and public as to the presence of a historic site, structure, object or building. Archaeological sites are exempt from this requirement.
 - b. An official county map shall indicate an "HR" for "historic or heritage register" for any property listed on the national, state or local registers, except site-specific archaeological sites.
 - c. Property(ies) listed on the Clark County cultural resource inventory or a city's cultural resource inventory shall be indicated on official maps with an "HI" for "historic inventory" except site-specific archaeological sites.
 - d. Historic district boundaries approved by the board shall be indicated on the county's official zoning maps.
 - e. Any application for development of building permit review on an HR- or HI-designated property shall be routed to commission staff for review and/or action pursuant to this section and adopted rules and procedures prior to permit approval.
- 2. The responsible official is responsible for review of impacts to potential or existing historic resources. All applications for approval, permits, environmental assessments or impact statements, and other similar documents pertaining to property(ies) on the Clark County cultural resource inventory or adjacent property(ies) shall be reviewed by appropriate staff or a qualified consultant. Comments shall be forwarded to the responsible staff for the application under consideration. If a property is on the National Register of Historic Places, CCHR or a historic district on either register, the commission staff shall contact the

property owner or agent in writing and advise them of the register status and applicable requirements. Cultural resources which are archaeological resources reviewed pursuant to the State Environmental Policy Act (SEPA) shall be reviewed by a qualified archaeologist and comments shall be forwarded to the responsible staff for the application under consideration.

- I. Review and monitoring of property(ies) for special property tax valuation. This section implements the local option special valuation tax incentive program as established in RCW 84.26. "Special valuation tax incentive program" or "special valuation" means the local option program which makes available to property owners a special tax valuation for rehabilitation of historic property(ies) under which the assessed value of an eligible historic property is determined at a rate that excludes, for up to ten (10) years, the actual cost of the rehabilitation.
 1. Time Lines.
 - a. Applications must be filed with the County Assessor's office and shall be forwarded to the commission by the assessor within ten (10) days of filing.
 - b. For applications filed at least thirty (30) days prior to the next regularly scheduled meeting of the commission, the case may be put on the agenda for that meeting. If there are not thirty (30) days, the case will be scheduled for the next regularly scheduled meeting of the commission.
 - c. Applications shall be reviewed by the commission before December 31st of the calendar year in which the application is made.
 - d. Commission decisions regarding the applications shall be certified in writing and filed with the assessor within ten (10) days of the decision.
 2. Procedure.
 - a. The applicant files an application for special valuation with the County Assessor's office no later than October 1st preceding the tax assessment year in which they wish to apply. A fee is required as established in CCC Title 6 and is payable to the Department of Community Development.
 - b. The assessor forwards the application(s) to the commission within ten (10) days of receipt of the completed application.
 - c. The commission reviews the application(s), consistent with its rules and procedures, and determines if the application(s) are complete and if the property(ies) meet the criteria set forth in WAC 254-20-070(1) and listed in Section 40.250.030(I)(3).
 - (1) If the commission finds the property(ies) meet all the criteria, then it shall approve the application(s).
 - (2) If the commission determines the property(ies) do not meet all the criteria, then it shall deny the application(s).
 - d. The commission certifies its decisions in writing and states the facts upon which the approvals or denial are based and files copies of the certifications with the assessor.
 - e. For approved applications:
 - (1) The commission staff forwards copies of the agreements, applications and supporting documentation (as required by WAC 254-20-090(4) and identified in Sections 40.250.030(I)(3) and 40.250.030(I)(4) to the County Assessor;
 - (2) The commission staff forwards the signed agreement and application documents to the County Auditor for recording. The applicant shall be assessed fees for recording as prescribed by the County Auditor and other applicable Clark County Code sections;
 - (3) Notifies the Washington State Advisory Council that the property(ies) have been approved for special valuation; and
 - (4) Monitors the property(ies) for continued compliance with the agreements throughout the ten (10) year special valuation period. Monitoring may include an annual site visit by staff or commission members.
 - f. The commission determines in a manner consistent with its rules of procedure, whether or not property(ies) are disqualified from special valuation either because of:
 - (1) The owner's failure to comply with the terms of the agreement; or
 - (2) Because of a loss of historic value resulting from physical changes to the building or site.
 - g. For disqualified property(ies) pursuant to RCW 84.26.080, the commission shall notify the owner, assessor, and Washington State Advisory County in writing and state the facts supporting its findings.

3. Criteria.
 - a. Historic Property Criteria. The class of property eligible to apply for special valuation in Clark County shall mean all property(ies) listed on the National Register of Historic Places, CCHR or property(ies) certified as contributing to local and/or National Register Historic Districts which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in RCW 84.26.
 - b. Application Criteria. Complete applications shall consist of the following documentation:
 - (1) A legal description of the historic property;
 - (2) A copy of the nomination form to the National Register of Historic Places, CCHR for the subject property(ies);
 - (3) Comprehensive exterior and interior photographs of the historic property before and after rehabilitation. Photographs should be four (4) inches by six (6) inches or five (5) inches by seven (7) inches minimum format either black and white or color, with negatives and must be clearly labeled to identify case, location, subjects and the direction the photograph was taken. Photographs shall include:
 - (a) Photos taken prior to construction;
 - (b) Historic photos or other source materials of replicated features; and
 - (c) A current streetscape.
 - (4) Architectural plans or other legible drawings depicting the completed rehabilitation work signed by the architect or draftsman;
 - (5) Notarized affidavit(s):
 - (a) Attesting to the actual itemized cost of the rehabilitation work completed prior to the date of application and,
 - (b) Indicating rehabilitation work was completed within the twenty-four (24) month period of time prior to application for special valuation. Documentation of both must be made available to the commission;
 - (6) Samples of utilized materials may be required by the commission;
 - (7) Other information as required by staff or the commission at a pre-application meeting.
 - c. Property Review Criteria. In its review the commission shall determine if the property(ies) meet all the following criteria:
 - (1) The property is historic property which is designated to the local and/or national registers;
 - (2) The property has been rehabilitated at a cost which meets the definition set forth in RCW 84.26.020(2) (and identified in rules and procedures of this chapter) within twenty-four (24) months prior to the date of application; and
 - (3) The property has not been altered in any way which adversely affects those elements which qualify it as historically significant as determined by applying the Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties (WAC 254-20-100(1) and listed in rules and procedures of this chapter).
 - d. Rehabilitation and Maintenance Criteria. The Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties in WAC 254-20-100 shall be used by the commission as minimum requirements for determining whether or not a historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified.
4. Agreement. The historic preservation special valuation agreement in WAC 254-20-120 shall be used by the commission as the minimum agreement necessary to comply with the requirements of RCW 84.26.050(2).
5. Appeals. Any decision of the commission acting on any application for classification as historic property, eligible for special valuation, may be appealed to Superior Court under RCW 34.04.130 in addition to any other remedy of law. Any decision on the disqualification of historic property eligible for special valuation, or any other dispute, may be appealed to the county board of equalization.

J. Inter-local agreements.

1. Inter-local agreements may be established in accordance with RCW 39.34 between cities and the county for historic preservation services.

2. The commission may act on behalf of an incorporated city within Clark County, with a valid inter-local agreement. The inter-local agreement must specify if the commission and board retain final decision-making power on nominations, designation, and/or design review. If the commission and board do not retain final decision-making authority, the inter-local agreement shall stipulate which jurisdictional body shall have final decision-making authority.

K. Clark County cultural resources inventory.

1. "Inventory" means the Clark County cultural resources inventory or a comprehensive inventory of historic resources within the boundaries of Clark County including resources identified by local jurisdictions within Clark County. The inventory is a tool for planning and research and includes those resources believed to have prehistoric, historic or cultural significance to Clark County, or even the nation, regardless of current ownership.
2. There are no regulatory requirements arising from this historic preservation section which result from inclusion on the inventory.
3. Application to the Inventory.
 - a. A property owner may make application to request listing on the inventory by completing an inventory survey form available from the Department of Community Development and submitting it to the commission staff.
 - b. The county may conduct a historic and cultural resource survey and make application for listing on the inventory without property owner consent.
4. Listing on the Inventory.
 - a. New listings of buildings, structures, sites, objects or districts to the inventory are subject to review by the Department of Community Development. Consideration of listing shall be based upon development of a comprehensive inventory methodology which determines a rank order.
 - b. Property(ies) which are demolished shall be maintained in the inventory records for historical research purposes.

40.250.040 EXISTING RESORT OVERLAY DISTRICT

- A. Purpose. This district is intended to set out development guidelines of historic resort facilities that complement the natural and cultural attractiveness of the area without significant adverse effects on natural and environmental features. The district provides for recognition of existing, self-contained, indoor and outdoor recreational facilities that are outside of urban growth areas and in a rural or resource area setting of significant natural amenities. This district is intended to identify and protect existing general resort-like facilities.
- B. Applicability. This section is applicable to the unincorporated portions of the county, excluding urban growth areas. The application of this district shall not result in any permanent residential uses or a predominance of commercial uses. When applied, such an overlay district does not change the existing, underlying zoning designation.
- C. Uses.
The following uses are permitted in the overlay district:
1. Lawful existing uses and structures in existence on July 1, 1990.
 2. All uses specifically permitted or conditional in the base-zoning district shall continue to be allowed according to the review procedures consistent with this title.
 3. Overnight lodging, including lodges, hotels, motels, timeshare units and similar temporary living accommodations only when oriented and sized to serve the recreational uses on the site.
 4. Housing may be provided for full time or seasonal employees.
 5. Subject to an approved development plan, the following uses may be permitted when provided as part of, and intended primarily to serve as an accessory part of destination resort. These uses shall be oriented to meet the needs of visitors to the resort and to a scale that ensures a subordinate status to the resort itself:
 - a. Restaurants, lounges and clubs serving the resort.
 - b. Commercial services and specialty shops to provide for the needs of resort guests.
 - c. Kennels as a service for resort guests only.
 - d. Craft and art studios and galleries catering to guests of the resort.
 - e. Indoor and outdoor recreational facilities and uses including, but not limited to, accessory structures and facilities, such as clubhouses, practice facilities, and maintenance facilities), tennis courts, swimming pools, marinas, hiking and nature trails, bicycle paths, equestrian facilities, and other recreational uses deemed to be consistent with the on-site recreational nature of the resort.
 - f. Community sewer, water, security and fire protection may be provided on site and sized to meet only the needs of the development. Other utilities and services to the extent necessary to maintain and operate the resort.
 - g. Temporary and/or permanent structures to serve as sales offices.
 - h. Any other similar uses deemed by the responsible official to be consistent with the purpose and intent of this chapter, the county comprehensive plan policies and RCW 36.70A.362.
- D. Standards.
The following standards apply to uses in the overlay district:
1. New and modified uses shall insure that at least 50% of the site is dedicated to permanent open space, excluding yards, streets and parking areas.
 2. Standards for development shall be subject to the design standards contained in Subtitle 40.3. In addition, changes to the existing resort shall be consistent with and scaled to service the needs of the resort. In addition, a site-specific proposal shall address other elements of the comprehensive plan policies including protection of critical areas and treatment of impacts to adjacent lands.